

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appellants: Jeffrey R. BURY et al. Docket No. MBC-0511
Serial No: 10/787,507 Examiner: Kelechi EGWIM
Filed: February 26, 2004 Group Art Unit: 1796
Title: Strength Improvement Admixture

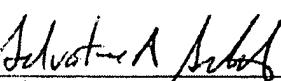
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July 13, 2009

(date)

REPLACEMENT SECTION OF APPELLANTS' BRIEF UNDER 37 C.F.R. § 41.37

Dear Sir:

This Replacement Section of Appellants' Brief is submitted in response to the Notification mailed June 11, 2009 pursuant to 37 C.F.R. § 41.37.

The **AMENDMENTS TO APPELLANTS' BRIEF** are on Page 3.

The **REMARKS** are on Page 4.

37 CFR §1.7 provides “[W]hen the last day, or the last day fixed by statute or by or under this part for taking any action, or paying any fee, in the Patent and Trademark Office falls on Saturday, Sunday or on a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding day which is not a Saturday, Sunday, or Federal holiday.” The Notice of Non-Compliant Appeal Brief was mailed on June 11, 2009 and set one month period for response (July 11, 2009). July 11, 2009 was a Saturday. Today, July 13, 2009, is the next succeeding day that is not a Saturday, Sunday or Federal holiday within the District of Columbia. Accordingly, this paper is timely filed without an petition for an extension of time.

In the event that the Office determines that an extension of time is necessary to file this Response, Appellants hereby make this conditional petition for a one month extension of time under 37 C.F.R. 1.136(a).

AUTHORIZATION TO CHARGE DEPOSIT ACCOUNT

In the event that the Office determines that an extension of time is necessary, the Director is hereby authorized to charge the Petition Fee to Deposit Account No. 50-3275. In the event any additional fee is applicable to the filing of this document and the required fee is not enclosed, or the fee submitted is insufficient, the Director is hereby authorized to charge any fees for MBC-0511 that might be required to effect the filing of this (these) documents to Account No. 50-3275.

AMENDMENT TO APPELLANTS' BRIEF

Please replace section 5 of the Appellants' Brief submitted on May 4, 2009 with the following section:

5. Summary of Claimed Subject Matter

~~The appealed claims are~~ Appealed claim 1 is directed a strength improvement admixture composition comprising (a) polycarboxylate dispersant; (b) set retarder; and (c) a strength improvement additive selected from the group consisting of poly(hydroxyalkylated)polyethyleneamines, poly(hydroxyalkylated)polyethylenepolyamines, poly(hydroxyalkylated)polyethyleneimines, poly(hydroxyalkylated)polyamines, hydrazines, 1,2-diaminopropane, polyglycoldiamine, poly(hydroxyalkyl)amines and mixtures thereof, wherein the amount of polycarboxylate dispersant is from about 5% to about 80%, the set retarder is from about 0.5% to about 40%, and the strength improvement additive is from about 0.5% to about 40% based on the total dry weight of the admixture composition components. See Specification at Page 3, Lines 9-17; Pages 5, Lines 17-19; Page 20, Lines 9-10; Page 20, Lines 25-28; Pages 47, Lines 15-19 (original claim 2).

~~The appealed claims are also~~ Appealed claim 15 is directed to a cementitious composition comprising hydraulic cement and a strength improvement admixture composition, said admixture composition comprising (a) polycarboxylate dispersant; (b) set retarder; and (c) a strength improvement additive selected from the group consisting of poly(hydroxyalkylated)polyethyleneamines, poly(hydroxyalkylated)polyethylenepolyamines, poly(hydroxyalkylated)polyethyleneimines, poly(hydroxyalkylated)polyamines, hydrazines, 1,2-diaminopropane, polyglycoldiamine, poly(hydroxyalkyl)amines and mixtures thereof, wherein the amount of polycarboxylate dispersant is from about 5% to about 80%, the set retarder is from about 0.5% to about 40%, and the strength improvement additive is from about 0.5% to about 40% based on the total dry weight of the admixture composition components. See Specification at 9, Lines 19-27; Pages 20, Lines 18-28; Page 50, Line 24 through Pages 51, Line 2 (original claim 15).

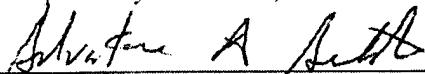
REMARKS

Appellants' Appeal Brief submitted on May 4, 2009 has been deemed non-compliant because, it is alleged, the brief does not contain a concise explanation of the subject matter defined in each of the independent claims, and dependent claims argued separately, involved in the appeal. The Notice of May 4, 2009 further alleges that the summary of the claimed subject matter does not refer to claims 1 and 15 on appeal explicitly to the specification by page and line numbers, and to the drawings if any.

Appellants has amended Section 5 to more clearly indicate the concise nature of the subject matter defined in each of the independent claims involved in the appeal with reference to the specification by page and line number. Applicant submits that these amendments overcome the issue raised in the Notice of May 4, 2009.

Appellants respectfully request that the Appeal Brief as amended be accepted and given a favorable response by the Office.

Respectfully submitted,



Salvatore A. Sidoti, Esq. (Reg. No. 43,921)

Customer No. 23575

Curatolo Sidoti Co., LPA
24500 Center Ridge Road, Suite 280
Cleveland, OH 44145
Telephone: 440.808.0011
Facsimile: 440.808.0657
Attorney for Applicants

7-13-09

Date